

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the January 23, 2015 Regular Council Meeting

Call to Order and Flag Salute at 3:30 p.m. by Mayor Serio

Council in Attendance: Gene Langan, Diane Tingle, Bill Weistling, Audrey Serio, Gardner Bunting, Todd Smallwood

Absent: Council Member Williams (excused)

Staff in Attendance: Town Manager Burke, Town Clerk Poole, Building Official Schuchman, Public Works Department Supervisor Reed, Police Chief Boyden

PRESIDENT'S REPORT

- Mayor Serio stated that a new *Ad hoc* Parks & Rec Committee has been created. Members appointed are Chair Audrey Serio, Linda Bunting, Roy Williams, Becca McWilliams, Bryan Collins, Lois Twilley and Lori Martin. The tasks of the committee will be to review the Town's parks and median strips. The committee will review the plantings, the recreational equipment to make sure that it's safe and other pertinent issues. The first committee meeting will be scheduled for the first part of February.
- Mayor Serio introduced Kyle Gulbranson, AICP Sr. Project Manager, URS Corp., to give the Town an update of the Sea Level Rise Study. Gulbranson stated that the Sea Level Rise Study is about complete. All the mapping for the Sea Level Rise scenarios are complete. The vulnerability assessment is complete. They are now working on a mitigation strategy for the town and an adaptation strategy for the town to use Sea Level Rise and recommendations for the town will be given. There will be a presentation of the complete package at the February Workshop to finalize the report and for Council approval. Also, as part of the project they are working on an educational brochure that will be done after the report has been approved by council.

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- 2015 Sussex County Economic Development & Infrastructure Grant – Town Manager Burke – On January 8, 2015, the town received a letter from Sussex County Administrator Todd Lawson to the Fenwick Island Town Council informing the town of additional funding for the year ending June 30. It will be allocated to the town in the form of a \$10,000 infrastructure grant to assist towns with economic development opportunities. Town Manager Burke checked with the county's new Economic Development Director, Melody Booker Wilkins, on how the town could spend the money. Town Manager Burke would like to recommend spending the money on upgrading the Town's Community Park.

Motion: Motion made to use the infrastructure grant, \$10,000 for the parks – Council Member Tingle

Second: Council Member Bunting

Discussion: none

Vote: (6-0)

- 2015 DNREC Universal Recycling Grant – Town Manager Burke – received correspondence for a new grant, DNREC Universal Recycling Grant and low interest loan program. Town Manager Burke called DNREC for specifics on the grant and he asked Council for approval to apply to DNREC to purchase additional recycling cans for the beach ends and funds to produce a recycling brochure hand-out to the community. There is no match, this is 100% and the deadline is March 3rd.

Motion: Motion made to apply for the DNREC Universal Grant – Council Member Tingle

Second: Council Member Langan

Discussion: none

Vote: (6-0)

- Town Telephone System – Town Manager Burke asked council for approval to spend up to \$15,000 on a new town telephone system. The town's current system, which involves hardware, software, cabling and phone units is outdated, costly to repair and should be updated. Town Manager Burke stated that he is looking at VOIP (Voice over Internet Protocol) and digital systems. Updating/replacing the phone system comes highly recommended from the Technology Committee for Council to approve management to investigate a new system. The Police Department received the same \$10,000 from the County and is going to use some of the law enforcement grant for this new phone system. Bids will be solicited and recommendations of a company at the February 27th council meeting.
- Retirement of Public Safety Building Debt – Town Manager Burke – The payoff for the Public Safety Building is \$141,887.24. With the Council's approval, the Town can pay off the debt and be free and clear on that building. Treasurer Bunting stated that the Realty Transfer Tax Account funds since August 1st is \$229,755. There is enough now to retire the debt and that will alleviate the interest that accrues daily on the loan. The Town will be paying off the debt approximately two (2) years sooner than planned.

Motion – Motion made to pay off the Public Safety Building debt – Council Member Bunting

Second – Council Member Langan

Discussion – Council Member Smallwood stated that it's a good idea, the town is paying \$4300 interest without touching principle. The Town is not getting that kind of return on \$141,000 or anything close.

Vote – (6-0)

Motion – Motion made to approve the Minutes of December 11, 2014 - Council Member Weistling

Second – Council Member Bunting

Discussion – none

Vote – (6-0)

TREASURER'S REPORT

Council Member Bunting stated that the town is on target with the budget. Expenses are at 42% and all of the capital expenses have been purchased including the new Public Work Vehicle that's on display out front. Delinquent taxes and fees are \$16,000.

Ending Reserve Balance \$2,771,933.26

FY 2015 Operating Budget (through November 30, 33% of fiscal year)

- 85% of Income
- 42% of Expenses

FY 2014 Capital Budget

- Majority of capital improvements items purchased.

Realty Transfer Tax (1.5%)

- \$229,755.00 (since August 1, 2014)

Outstanding Taxes and Fees

- Approximately \$16K including late fees (FY14 and FY15)

Public Safety Building Debt

- \$141,887.24 remaining

** All financial data is from the period ending December 31, 2014*

Motion – Motion made to accept the Treasurer's Report - Council Member Tingle

Second – Council Member Langan

Discussion – none

Vote – (6-0)

TOWN MANAGER'S REPORT

Projects

- **Cannon Street Sidewalk (phase 2)**
 - Due to inclement weather, Clean Cut Pavers was rescheduled to perform the work in January and/or early February.
- **Rack Cards (general information)**
 - Town management is in the process of drafting a general information rack card similar to the parking rack card. Distribution will occur in 2015.
- **Lifeguard Sponsorship Program (2015 summer season)**
 - Town management is redesigning the program application for a February 20, 2015 opening registration at 9:00 am.
- **Website**
 - Town management is updating the website with new photos and content. Social media is updated as needed.

- **Bids**
 - 2015 Beach Signage Bid
 - 2015 Beach Concession Service Bid
- **Personnel**
 - Preparing all facets of advertising for a new administrative clerk to start no later than May 1, 2015. The present administrative clerk will be retiring.

Grant Funding (approved)

- DNREC Coastal Programs Grant (\$10,000, 50% Town of Fenwick match)
 - URS will present the Sea Level Rise Vulnerability Assessment on February 27, 2015.
- DNREC Surface Water Matching Planning Grant (\$22,000, 50% Town of Fenwick match)
 - URS will have engineering plans completed by mid-February with solicitation of bids to occur in early 2015. Construction, if a bid is approved by Council, would be completed by May 30th.
- 2015 DNREC Surface Water Matching Planning Grant (\$13,000, 50% Town of Fenwick Island match)
 - DNREC approved a surface water grant to design drainage improvements on W. Dagsboro Street from approximately McWilliams Street to Wright Street. A project Agreement with DNREC was executed in January.

DEPARTMENT REPORTS

- **Building Official** – The December Building Report was included in the Council meeting packet. At the end of December the Town had received 60 rental renewals, 141 outside contractor's license renewals and 23 resident merchant renewals. On January 22nd, Building Official Schuchman and Council Member Weistling met with two (2) DEMA representatives and three (3) property owners. The property owners' homes have been given preliminary approval for a hazardous mitigation grant to elevate their homes. Also see printed Stormsmart flyer on the benefits of Freeboard as it pertains to flood mitigation, flood insurance rates and Sea Level Rise.
- **Public Works** – The monthly report was included in the Council meeting packet. Public Works new vehicle has arrived.
- **Beach Patrol** – none
- **Police Department** – The monthly report was included in the Council meeting packet.

TOWN COMMITTEE REPORTS

Charter & Ordinance – Council Member Weistling

Proposed Second Reading – December 11, 2014
Chapter 88 – Flood Damage Reduction

Chapter 88 Second Reading read into the minutes. SEE ATTACHED DOCUMENT (28 pages) – Chapter 88 – Flood Damage Reduction, second reading December 11, 2014.

Motion: Motion made for the Town to consider the second reading - Chapter 88 – Flood Damage Reduction Ordinance, Town of Fenwick Island, Delaware. An ordinance by the Town of Fenwick Island

amending the Town of Fenwick Island Code of Ordinances to repeal Chapter 88, Flood Damage Prevention; to adopt a new chapter 88, Flood Damage Reduction; to adopt Flood Hazard Maps, to designate a Floodplain Administrator, to adopt Administrative Procedures, and to adopt criteria for development in Flood Hazard Areas, and for other purposes; to provide for Applicability; Repealer; and an Effective Date – Council Member Weistling

Second: Council Member Langan

Discussion: Council Member Weistling stated that by March 15th, the Town is required to adopt the new Floodplain Maps and a new Floodplain Ordinance. If the Town does not adopt by this time, it is in danger of being dropped from the National Flood Insurance Program. What the Town has decided to do, on their second reading, is to adopt the Floodplain Maps new ordinances and 2 foot mandatory freeboard. The Town has accepted the maps and the Ordinance was a model Ordinance that was provided to us from FEMA and approved by DNREC. The new Ordinance references the lowest level of a house's duct work which has to be at or above base flood elevation. The two (2) feet freeboarding was not a requirement, it was voluntary. The Town on the first reading, decided to adopt Mandatory Freeboarding.

Council Member Weistling said that after it is approved, he was in favor of the freeboarding. The freeboarding will raise the potential for building height but after looking at it at this particular time, he would prefer to draft the Ordinance without the freeboarding. Freeboarding has brought on a lot of discussion. He's talked to a lot of people obviously who are against any height restriction and people who are in favor of modest height restriction but want more information/explanation about freeboarding and what criteria the Town will use if the height is to be required. Council Member Weistling stated that at this particular time of the year, it's probably not a good time to do this with the amount of interest the Town's residents have expressed.

Council Member Smallwood stated that he does believe in global warming and sea level rise and 100 years from now people will only see polar bears in a controlled environment. He agrees with the freeboarding; he believes in 24" and making it mandatory. However, he will vote no today and the reason is that the ordinance does not go far enough. It needs to contain the components that the Town requires two (2) feet of freeboarding; the need to allow new construction to make up that two (2) feet with a two (2) feet higher building height. He does think that this should be part of the Ordinance and also if the Town is going to allow an additional two (2) feet of building height, they need to decide where it will be measured from base flood elevation or from the crown of the road.

Council Member Bunting stated that he believes it should be passed with the mandatory freeboard. Town Manager Burke did some research and South Bethany voted for 24" of voluntary freeboard. If one chooses to do that in South Bethany they will grant two (2) additional feet of height to the house. The Town of Ocean View voted mandatory 24"; Millville mandatory 12"; Rehoboth went with no freeboard, however, their elevation is must higher than Fenwick. Henlopen Acres voted for 36" mandatory freeboard; Dewey Beach is in at 12" with some additional requirement they have created, but not finalized. Bethany is in the process, they are looking at 18" mandatory; Lewes mandatory 18". Sussex County is voluntary 24" and they will allow the additional two (2) feet height.

Council Member Langan stated that he believes that it's the Council responsibility to pass this Ordinance considering what's going on with sea level rise.

Mayor Serio stated that she agrees with Council Member Smallwood. The purpose of this ordinance is to make the Town's homes safer and more protected. The issue is the Town has until March 15th in which they have to have meetings, a second reading, a Public Hearing and the papers delivered to the entities by mid-March.

Council Member Tingle also agrees with Council Member Smallwood and the 24" mandatory freeboard but will not vote for it until the building height restriction is clear and where the height is measured from.

Council Member Weistling stated that there are 6 Council Members, with what appears to be a 3 – 3 vote. If everyone sticks to a 3 – 3 vote, the second reading will not pass and the Council will have to start over with a first reading and a second reading. Any first reading is normally required be held at a Regular Town Council Meeting or unless it's declare an emergency Meeting. One way it can be done is to amend this motion today to eliminate the freeboarding concept so the Ordinance would pass.

Motion: Council Member Weistling amended the motion on Chapter 88 Flood Damage Reduction Ordinance Town of Fenwick Island, Delaware to eliminate mandatory freeboarding from the second reading and just proceed with the basic Floodplain Ordinance acceptance and the acceptance of the new FEMA Maps.

Second: Council Member Tingle

Discussion: Mayor Serio stated to be clear that we are accepting Chapter 88 without the Freeboard, with the understanding that we will be setting a meeting up as soon as this vote is taken and start working on the height issue.

Vote: Council polled - On approving the Second Reading, Chapter 88, without the Freeboard - (6 - Ayes)

Council Members Polled - Council Members Langan, Tingle, Weistling, Serio, Bunting and Smallwood

Mayor Serio said we will set the date for the Public Workshop. The Workshop will be on February 3rd at 2:00 p.m. to discuss Chapter 160 – Zoning – Height Restriction and Freeboard.

- **Beach Committee** – Council Member Weistling spoke with Becca McWilliams, stating that the Freeze made about \$1,000 less than last year. The Beach Committee has towels left over if anyone is interested.
- **Environmental Committee** – None to report. Next Meeting set for February 12th (cancelled).
- **Technology Committee** – Council Member Langan reported the next meeting will be February 20, 2015 at 10:00 a.m. The bids for the new phone system are due on February 13th. The Tech Committee will be reviewing the phone bids and make recommendations to Town Council.
- **Business Development Committee** – Next meeting scheduled for February 19, 2015, at 2:00 p.m.
- **Planning Commission** – none
- **Old Business** – Mayor Serio noted that DNREC is selling lifeguard sign advertising on the lifeguard stands in all the State Parks. Town Manager Burke stated that this will be their second year and used our same information. We are partners in selling advertising space.
- **New Business** - none

PUBLIC PARTICIPATION

- Mike Quinn – 5 W Houston St. – During the meeting that was held on January 21st (workshop), there was a lot of talk from the business people about the flow of traffic through town. Is there anyway the Town can recommend a change in the speed limit to help the business people. Mayor Serio stated that the State has certain limits for certain areas. Mr. Quinn noted that we did change the speed limit on the side streets from 20 to 15. Mayor Serio stated the Town can control the side streets, but the State isn't very cooperative on the State Roads.
- Kevin Coyle – So. Carolina Ave. – Is there anything that can be done about the light sequence on Rt. 1 and South Carolina Ave. Mayor Serio stated the Town has tried to have the light sequence addressed with no avail.
- Ron Rayne – 809 Bunting Ave – He will be sending the Town a letter to address his issues and he will be out of Town for the Public Meeting.
- Lynn Andrews – 1205 Schulz Road – When the Town does anything to change the roof height in Town, the Town needs more public participation. The residents need to be notified, if they are even thinking about it. Mayor Serio stated that Andrews was terming it wrong. What the Town is doing is changing the way that they are measuring the height of the house. Lynn Andrews stated that she understood that, but it will change the height of the house which will change the height of the buildings. Mayor Serio stated not all of them will be. Lynn Andrews stated that you need to educate the people of this Town to what it all means.
- Vicki Rymer – E Georgetown Street – Most of us moved here because there were no motel or tenant houses. The monstrosity going up two blocks from the ocean is unbelievable and that is in the height requirements. Council Member Smallwood stated that he had been hearing from everyone that anything that happens to the height will immediately devalue the properties in town. "What do you think that house going up across the street is adding to the value of your house?"
- Phil Craig – 12 Oyster Bay Dr. – This is no longer a little fishing village with little small shacks or a retirement community. There is no one here today that would like to give back the increase value of their homes. He just doesn't understand why the families here now think their legacy ends with them. He is sure they have relatives or children that may end up taking their home and will want to have a house that can accommodate more people. He doesn't understand why they don't want to give the people of the next generation the benefit of safety in the house and not having water surge through the house. It's just very selfish. Also, speaking of education, unfortunately he got a letter in the mail from FISH, and he knows that the people of FISH are here, that is blatantly false in terms of the information. Mayor Serio stated that the whole key to this is safety and they have to think about the people who are coming here. Her job as Mayor is to make sure any decision that is made is for the safety of those within the Town, not because the roofs are going to be higher or lower. People should be able to build the home they want, but they should be able to build a safe one.
- Buzz Henefin – 48 Windward Way – He thinks the lights on Rt 1 are really bad. Timing sequence is very long for the side streets.
- Council Member Weistling – 7 E Indian St - He was a member of the Board of FISH before he became a council member and he supports a lot of FISH views, but he has deep concerns of the information in the FISH Newsletter. He would like to start on page one; it has Craig Williams, FEMA representative, when actually it's Greg Williams, DNREC Certified Flood Plain Manager. On the next page are the Towns listed and what they have done on the freeboarding. It mentioned

that Sussex County has no action, compliance is voluntary, which is true; but it did not mention that they have also allowed a 24” maximum height. South Bethany is mentioned as no action, when actually it’s voluntary and allowed 2 feet to the height. Ocean View is mentioned as no action when actually Ocean View is mandatory and 24” will be added to the building height. The third page needs just a small correction; Bill Weistling’s term ends in 2016, not 2015; and Council Member Langan’s term ends in 2015, not 2016. The biggest concern he has with the newsletter is the very second sentence of the newsletter starts by saying “Except for a few diligent residents who noted the posted date for a Federal Emergency Management Agency FEMA Workshop by the Town Hall door”. When he read that, along with the calls he received this week from residents and people on the street, it makes it seem like if it wasn’t for a few diligent resident looking at this on Town Hall door that nobody would know about the FEMA Workshop. He didn’t know why FISH in the newsletter didn’t copy the words of the Town’s October 24th Council Meeting Minutes, “Building Official Schuchman made arrangement for a workshop with Greg Williams, Flood Plain Manager, who could answer questions and explain. The Special Council Meeting Workshop will be held, November 25th at 10:00 a.m. at Town Hall. Council will be voting on the Flood Damage Reduction Ordinance at the December 11th Council Meeting to make the March 15th, 2015, FEMA deadline. Again, this was announced at the October 24th Council Meeting, which was 32 days prior notice and what is seen in the FISH Newsletter is that a few diligent residents picked this up on the Town Hall door. It was also on the Town’s website. But what really bothered him was Lynn Andrews, who is the president of FISH, was at that October Council Meeting. He stated that they have a certain responsibility sitting on Council and he takes that responsibility very seriously and he did a lot of work preparing for this. If one is going to put something in writing like this in the newsletter, one needs to be accurate and factual; but above all, be truthful in what they write. It was mailed to an unknown number of residents, it should at least try to make the effort to state the facts. Then the people can make up their own opinions. Lynn Andrews stated she was sorry for the inconsistencies, but she had checked with the Town before the letter was written; and at that time they checked no decisions had been made.

- Vicki Carmean – 38 Ebb Tide Cove – Sorry to see that there is controversy here, but as long as she has known Lynn Andrews, she has never know her to be anything but an honest person. She has nothing but respect for Lynn Andrews and the FISH Organization and she knows that the people on Council do as well. She believes it’s a matter of leadership style and making sure the public is aware of what’s going on. It is winter time and it makes it really hard for people to stay abreast of what’s going on. She feels what the FISH Newsletter was asking for was more time for education and clarification. Mayor Serio stated, “The problem is we didn’t make those dates.” The Council did not set the March 15th date; they had nothing to do with it. This date was sent to the Town with the date that it had to be back. The Town has had more workshop meetings in the last two months, than any time in the last 12 years that she has been on Council. They have brought experts in from the State, the County and an expert from URS (Kyle Gulbranson) so everyone can input. It has been very clear to everyone that the date was given to us.
- Phil Craig – 12 Oyster Bay Dr. – More than a year ago, Charlie Zonko and he gave a presentation; one to Town Council, one to C & O and one to the public at large. When they talked about all these issues that had to do with height change, there were a ton of people here. Council Member Weistling reviewed the dates, processes and appeals dates and timelines. Building Official Schuchman stated that this is a twofold approval process. The Town had to approve the new maps. There was a lot going on with that, because if one remembers the ocean front was taken out

of the floodplain and the Town appealed to FEMA to say they wanted that put back in the floodplain. So then new maps had to be redone. The second portion was to do the ordinance.

- Ron Rayne – 809 Bunting – He didn't realize the significance of freeboarding and that it would cause an increase in the height limitation.

UPCOMING MEETINGS AND EVENTS

Council Member Serio announced the following upcoming meetings and events as follows:

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| a. February 3 | 9:30 a.m. | Charter and Ordinance Committee Meeting |
| b. February 16 | Town Hall Closed | President's Day |
| c. February 19 | 2:00 p.m. | Business Development Meeting |
| d. February 27 | 3:30 p.m. | Regular Council Meeting |

Motion to adjourn – Council Member Weistling

Second – Council Member Bunting

Discussion – none

Vote – (6-0)

Meeting adjourned at 5:00 p.m.

**Transcribed by Linda Poole, Town Clerk
for Council Member Diane Tingle, Secretary*